

THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BUNGIE, INC.,

Plaintiff,

v.

AIMJUNKIES.COM; PHOENIX DIGITAL  
GROUP, LLC; DAVID SCHAEFER; JORDAN  
GREEN; JEFFREY CONWAY AND JAMES  
MAY,

Defendants.

No. 2:21-cv-811

**PLAINTIFF BUNGIE, INC.'S  
UNOPPOSED MOTION TO SEAL**

NOTE ON MOTION CALENDAR:  
July 20, 2023

At the request of Defendants AimJunkies.com, Phoenix Digital Group, LLC (“Phoenix Digital”), David Schaefer, Jordan Green, Jeffrey Conway, and James May (collectively, “Defendants”), Plaintiff Bungie, Inc. (“Bungie”), pursuant to LCR 5(g) and the Stipulated Protective Order entered by the Court in this matter (Dkt. No. 60), hereby moves to file under seal Exhibits 7-12, 18, 25, 26, and 36 to the Declaration of William C. Rava in Support of Bungie’s Motion for Summary Judgment (“Rava Declaration”) and Exhibit 2 to the Declaration of Edward Kaiser in Support of Bungie’s Motion for Summary Judgment (“Kaiser Declaration”), and the accompanying references to these exhibits and information in Bungie’s Motion for Summary Judgment (“Motion”).

A party may file a document under seal without prior court approval “[i]f the party files a motion or stipulated motion to seal the document . . . at the same time the party files the sealed

PLAINTIFF’S MOT. TO FILE UNDER SEAL  
(No. 2:21-cv-811) – 1

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1 document.” LCR 5(g)(2)(B). The contemporaneous motion must include a certification that the  
2 parties met and conferred about the need to file the document under seal, the ability to minimize  
3 the material filed under seal, and the possibility of exploring alternatives to filing under seal. LCR  
4 5(g)(3)(A). Where the parties have entered a stipulated protective order, a party wishing to file  
5 confidential documents it obtained from another party in discovery may file a motion to seal but  
6 need not provide a specific statement of the applicable legal standard and the reasons for keeping  
7 a document under seal. LCR 5(g)(3)(B).

8 Here, Bungie intends to file under seal (1) excerpts of the deposition transcript of John Doe  
9 (Rava Decl., Ex. 26); (2) a document designated by Bungie as Confidential because it contains  
10 potentially identifying account identifiers for *Destiny 2* players (Kaiser Decl., Ex. 2); and  
11 (3) documents and deposition transcript excerpts designated by Defendants as Confidential or  
12 Highly Confidential (Rava Decl., Exs. 7-12, 18, 25, and 36).

13 With respect to the John Doe deposition transcript (Rava Decl., Ex. 26), sealing is  
14 appropriate pursuant to the May 2, 2023 protective order entered by the Court, protecting John  
15 Doe’s identity. Dkt. No. 126. The content of John Doe’s deposition excerpts could be used to  
16 identify John Doe. Similarly, Exhibit 2 of the Kaiser Declaration contains account identifiers for  
17 *Destiny 2* players, which could be used to potentially identify and contact those players, who are  
18 not parties to this lawsuit.

19 The remaining exhibits that Bungie intends to file under seal (Rava Decl., Exs. 7-12, 18,  
20 25, and 36) consist of documents designated by Defendants as Confidential or Highly Confidential,  
21 references to such documents in the expert report and supplemental expert report of Drew Voth,  
22 and excerpts of deposition transcripts from Defendants that were taken in the parallel JAMS  
23 arbitration proceeding between the same parties and which were designated in their entirety as  
24 Confidential by Defendants. Bungie has an obligation to maintain the confidentiality of this  
25 information under the stipulated protective order in this case and the virtually identical order in  
26 the arbitration proceeding.

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On July 18-19, 2023, Bungie's counsel notified counsel for Defendants via email of its intent to file Exhibits 7-12, 18, 25, 26, and 36 to the Rava Declaration and Exhibit 2 to the Kaiser Declaration in connection with its Motion, including the specific portions of the deposition testimony to be cited, and asked Defendants to confirm whether they intended to maintain their confidentiality designations over those portions of the transcripts. Defendants' counsel said that Defendants intended to maintain all Confidential and/or Highly Confidential designations of these documents and deposition transcripts. Defendants' counsel further said that Defendants do not oppose Bungie filing under seal Exhibit 26 to the Rava Declaration or Exhibit 2 to the Kaiser Declaration.

A proposed order accompanies this motion.

Dated: July 20, 2023

By: /s/William C. Rava

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